

## EXHIBIT 5

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

LIFE AFTER HATE, INC., a/k/a EXITUSA,	)	
	)	
Plaintiff,	)	Case No. 18-cv-06967
	)	
v.	)	Judge Virginia M. Kendall
	)	
FREE RADICALS PROJECT INC., and	)	Magistrate Judge Jeffrey Cole
CHRISTIAN PICCIOLINI,	)	
	)	
Defendants.	)	

**DEFENDANT FREE RADICALS PROJECT INC.'S  
SUPPLEMENTAL AND AMENDED OBJECTIONS AND ANSWERS  
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Defendant, FREE RADICALS PROJECT INC. ("FRP"), by and through its undersigned counsel, for its supplemental and amended objections and answers to Plaintiff's First Set of Interrogatories, states as follows.

**GENERAL OBJECTIONS**

1. FRP objects to Plaintiff's First Requests to Produce (hereafter referred to as the "Requests") to the extent they seek information or documents, or to impose obligations, beyond those required by the Federal Rules of Civil Procedure and/or the Local Rules of the United States District Court for the Northern District of Illinois, Eastern Division.

2. FRP objects to Plaintiff's Requests to the extent they call for documents or information not within its possession, custody, control, or knowledge, or that are as readily accessible to Plaintiff as they are to FRP, including but not limited to documents or information that are publicly available or available from third parties.

3. FRP objects to Plaintiff's Requests to the extent they seek material protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable

privilege, or to the extent that they are otherwise protected from discovery. To enable Plaintiff to evaluate FRP's assertions of privilege, FRP states that it respectfully declines to produce or log any files, records, documents or other things, relating to its communications with undersigned counsel and/or that were created on or after the date that the Complaint was filed.

4. FRP objects to the extent that Plaintiff's Requests seek "all" information and documents to the extent the production of "all" documents or information pertaining to a particular subject matter is overbroad, unduly burdensome, and/or not reasonably calculated to lead to the discovery of admissible evidence in that it is unreasonably cumulative and/or duplicative.

5. FRP objects to the extent that Plaintiff's requests seek disclosure of names or other personal identifying information regarding any person who has received services from Christian Picciolini and/or FRP because such information is highly confidential and disclosure of the same constitutes a breach of confidence and trust held with those individuals, and disclosure of such personal identifying information may endanger those persons. Therefore, FRP will not disclose such personal identifying information in response to any Request.

6. FRP's identification of information or responsive documents in response to an individual Request is based on its investigation, review, and production to date, and does not necessarily include "all" information and documents which may ultimately be determined to be responsive to any given Request.

7. A response that FRP will produce documents is not an indication that any documents exist, but only a representation that they will be produced if such documents do exist.

8. In providing any of the information requested, FRP does not concede the relevance thereof to the subject matter of this proceeding. FRP's responses are made expressly

preserving the right to raise all questions of relevance and admissibility and to object on any grounds to the use of any responses to Plaintiff's Requests. The fact that FRP has answered or responded to any Request or any part thereof subject to objections does not waive all or any part of any objection to any Request.

9. FRP reserves the right to modify or supplement its answers and objections to Plaintiff's Requests, which are made based on the current status of knowledge, understanding, belief, and search for information and documents. The investigation of facts and information relating to this proceeding is continuing, and therefore, these answers are not intended as an admission or a representation that additional or different information or facts do or do not exist.

10. Subject to and without waiving its General Objections, which are incorporated in and made part of each specific response to Plaintiff's individual Requests, FRP responds as follows:

#### **SPECIFIC OBJECTIONS AND ANSWERS**

1. List the basic information about each of the past and present shareholders of FRP, including the date each became a shareholder of FRP, the percentage of stock each owned/owns in FRP, the voting rights of each shareholder, and the number of shareholder meetings in which each participated.

**ANSWER:** In addition to its General Objections, FRP objects to Interrogatory No. 1 as vague and ambiguous on the grounds that the terms "basic information" is undefined and FRP cannot ascertain the meaning Plaintiff attaches to it. FRP further objects to Request 1 as overly broad and unduly burdensome the grounds that any information about the identification of any shareholder of FRP is not considered or subject to any analysis of the likelihood of consumer confusion for the alleged use of the trademarks. It is unclear how information about FRP's

shareholders and their voting rights would have any affect or impact on the consumer of FRP's services, how it would show that there is any similarities between Plaintiff and FRP's services, or how it demonstrates infringing use the trademarks. Plaintiff is improperly seeking to pry into FRP's business, but Plaintiff is not seeking to enforce a non-compete or non-solicitation agreement in its preliminary injunction motion. This interrogatory is therefore not reasonably calculated to lead to the discovery of admissible evidence and it is not proportional to the needs of the preliminary injunction motion. FRP further objects to Interrogatory No. 1 as vague and ambiguous on the grounds that the term "shareholder(s)" is vague and ambiguous. Subject to and without waiving its general and specific objections, and as limited thereby, FRP states that Christian Picciolini is the sole incorporator of FRP. Further responding, Christian Picciolini did identify, or was available to identify, this information in his deposition of February 8, 2019.

2. Identify every person who has held a position as an employee, intern, or independent contractor of FRP, or has been employed by, associated with, or has acted at the direction of FRP from its inception through the present and, for each person identified, state each person's job title, describe each person's job duties, and identify the date each person was hired and left FRP.

**ANSWER:** In addition to its General Objections, FRP objects to Interrogatory No. 2 as overly broad and unduly burdensome the grounds it seeks information that is not relevant to the preliminary injunction motion because identification of individuals associated with FRP is not a consideration in a likelihood of consumer confusion analysis. It is unclear how Plaintiff intends to prove the existence of consumer confusion over alleged use of the trademarks by pointing to the dates any non-decision making personnel began with and then left FRP. The information requested goes well beyond the scope of the preliminary injunction motion because

it does not seek any information relating to the use of the trademarks. This interrogatory is therefore not reasonably calculated to lead to the discovery of admissible evidence and it is not proportional to the needs of the preliminary injunction motion. Further responding, Christian Picciolini did identify, or was available to identify, this information in his deposition of February 8, 2019.

3. State the sources of all revenue (including donations) generated by FRP from its inception to the present and, for each source you identify, state the amount you received, the date you received said amount, the person or entity that provided or paid the amount and the purpose for receiving the revenue/money the right to receive that revenue/money (e.g. for services rendered, charitable donations, etc.).

**ANSWER:** In addition to its General Objections, FRP objects to Interrogatory No. 3 as overly broad and unduly burdensome the grounds it seeks information that is not relevant to the preliminary injunction motion because, by the very nature of the motion, Plaintiff is seeking injunctive relief and any specific amount of revenue that FRP has received is not considered under any factor of a likelihood of consumer confusion analysis. Further, Plaintiff does not define who the class of individuals it claims are “consumers” and therefore any revenue generated from non-consumer sources, such as individuals or entities that made donations, is not at issue in the preliminary injunction motion. Moreover, the scope of this request seeks information about all revenue, but it disregards whether the revenue is related to use of the trademarks, meaning that this request is clearly overbroad. This interrogatory is therefore not reasonably calculated to lead to the discovery of admissible evidence and it is not proportional to the needs of the preliminary injunction motion. Subject to and without waiving its general and specific objections, and as limited thereby, FRP states that, at all relevant times, it has not had

any revenue. Further responding, Christian Picciolini did identify, or was available to identify, this information in his deposition of February 8, 2019.

4. When did FRP or Christian Picciolini change the twitter handle of @EXITUSATEAM to say EXITUSA (now @Freeradicals.org) and why?

**ANSWER:** In addition to its General Objections, FRP objects to Interrogatory No. 4 as overly broad and unduly burdensome the grounds it seeks information that is not relevant to the subject matter of this lawsuit, including and claims and defenses asserted in this lawsuit, and it is therefore not reasonably calculated to lead to the discovery of admissible evidence. FRP further objects to Interrogatory No. 4 as overbroad on the grounds that it seeks information not proportional to the needs of this lawsuit. Subject to and without waiving its general and specific objections, and as limited thereby, FRP states it is unable to determine the date that the change was made. Investigation continues. Further responding, Christian Picciolini did identify, or was available to identify, this information in his deposition of February 8, 2019.

5. List the exact online addresses and/or account names for all websites and social media accounts that FRP currently uses or has used since its inception.

**ANSWER:** In addition to its General Objections, FRP objects to Interrogatory No. 5 as overly broad and unduly burdensome the grounds it seeks information that is not relevant to the preliminary injunction motion because it seeks information regardless of whether the online address or account is either related to or connected to the trademarks at issue, or the services that Plaintiff claims to be at issue in a likelihood of consumer confusion analysis. FRP therefore objects to Interrogatory No. 6 on the grounds that it seeks information not proportional to the needs of this lawsuit. Subject to and without waiving its general and specific objections, and as limited thereby, FRP states that it has used the following websites and accounts:

[www.freeradicals.org](http://www.freeradicals.org)

[www.wearefreeradicals.net](http://www.wearefreeradicals.net)

[www.twitter.com/freeradicalsorg](https://www.twitter.com/freeradicalsorg)

[www.facebook.com/freeradicalsproject](https://www.facebook.com/freeradicalsproject)

Further answering, the names of these websites as shown above reflect how they would visually appear to any person accessing these websites. Further responding, Christian Picciolini did identify, or was available to identify, this information in his deposition of February 8, 2019.

6. Identify all instances where FRP uses or has used the phrases “Life After Hate” or “ExitUSA” (and any close variations thereof) on or in connection with any of its services, websites, social media accounts, marketing materials, advertising, events, or presentations.

**ANSWER:** In addition to its General Objections, FRP objects to Interrogatory No. 6 as overly broad, unduly burdensome, vague, and ambiguous on the grounds that the terms “uses” and “used” are undefined and FRP cannot ascertain the meaning Plaintiff attaches to it. This interrogatory is also unduly burdensome because Plaintiff does not define the period of time it means by “instance” (e.g. an hour, a day a month, etc.). Moreover, Plaintiff fails to explain how “any close variation thereof” would be subject to trademark protection or otherwise how Plaintiff is entitled to injunctive relief for things other than what it specifically registered for its trademarks. FRP further objects to Interrogatory No. 7 because Plaintiff conceded in its Rule 30(b)(6) deposition that Plaintiff and Defendants do not provide all the same services and Plaintiff has not established that information about the services requested in Interrogatory No. 6 are at issue in its preliminary injunction motion, Interrogatory No. 6 is therefore not reasonably calculated to lead to the discovery of admissible evidence and it is not proportional to the needs of the preliminary injunction motion. FRP further objects to Interrogatory No. 6 as vague and



ambiguous on the grounds that the terms “close variations” is undefined and FRP cannot ascertain the meaning Plaintiff attaches to it. Subject to and without waiving its general and specific objections, and as limited thereby, FRP states that it uses/used the phrases “Life After Hate” and “ExitUSA” in the sections of FRP’s website and Facebook page containing Christian Picciolini’s biography. Further responding, Christian Picciolini did identify, or was available to identify, this information in his deposition of February 8, 2019.

7. Identify how many unique visitors have visited any of FRP’s websites or social media accounts each month from May of 2018 to the present.

**ANSWER:** In addition to its General Objections, FRPS objects to Interrogatory No. 7 as vague and ambiguous on the grounds that the term “identify” is undefined and Picciolini cannot ascertain what information Plaintiff contends is responsive to this request. Picciolini further objects to Interrogatory No. 7 as overly broad and unduly burdensome to the extent it seeks personal identifying information about any person or entity that may have visited any website or social media account associated with FRP. FRP further objects to Interrogatory No. 7 on the grounds that it seeks information beyond the scope of the preliminary injunction motion because this interrogatory seeks all information about “unique website visitors,” but Plaintiff does not connect in any way to either use of trademarks at issue in the preliminary injunction motion or the services at issue in the preliminary injunction motion. Interrogatory No. 6 is therefore not reasonably calculated to lead to the discovery of admissible evidence and it is not proportional to the needs of the preliminary injunction motion. Subject to and without waiving its general and specific objections, and as limited thereby, FRP states that it does not possess the information requested in Interrogatory No. 7 readily available and that it can be obtained by

Plaintiff from third party sources. Further responding, Christian Picciolini did identify, or was available to identify, this information in his deposition of February 8, 2019.

8. Identify the cost of each of FRP's services.

**ANSWER:** In addition to its General Objections, FRP objects to Interrogatory No. 8 as overly broad and unduly burdensome the grounds the cost of any of FRP's services are not related to and are not considered in a likelihood of consumer confusion analysis. This interrogatory also is beyond the scope of the preliminary injunction motion because the cost of any service is not relevant to injunctive relief. Further, Plaintiff concedes that Plaintiff and FRP do not provide the same services and Plaintiff is clearly seeks information about services that are not within the scope of the preliminary injunction motion. FRP further objects to Interrogatory No. 8 as vague and ambiguous on the grounds that the term "cost" is undefined and FRP cannot ascertain the meaning Plaintiff attaches to it. Subject to and without waiving its general and specific objections, and as limited thereby, FRP states that it does not charge for those who receive counseling or any other services from it. Further responding, Christian Picciolini did identify, or was available to identify, this information in his deposition of February 8, 2019.

Date: February 10, 2019

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 10, 2019, I served a copy of the foregoing document on all parties of record via electronic mail.

/s/ Michael A. Jacobson